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ABSTRACT

Maine law allows parents to arrange with local school boards to have their children educated outside a public or private school, if the student will receive "equivalent instruction." If the proposed program of instruction is "equivalent" within the meaning of the law, it must be approved by local school officials. Parents are entitled to a fair and timely decision on any application for equivalent instruction, and may appeal negative decisions. This document provides guidelines to aid local school officials in the adoption and implementation of equivalent instruction rules and policies. Part 1, "Rules for Equivalent Instruction Programs," contains the following: a flowchart depicting the approval process; timelines for three possible sequences in the process; procedures and standards for equivalent instruction programs; the commissioner's procedure for determinations on appeal of local school denials; and a basis statement. Part 2 (untitled) contains the following: guidelines for implementation of equivalent instruction programs by school boards; procedures and standards for equivalent instruction programs; model rules; a model application form; and a notice of school unit action. (IW)

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GUIDELINES FOR EQUIVALENT INSTRUCTION THROUGH HOME-SCHOOLING

Dr. Robert E. Boose
Commissioner
Department of Educational and Cultural Services
September 13, 1984

EA 018 809

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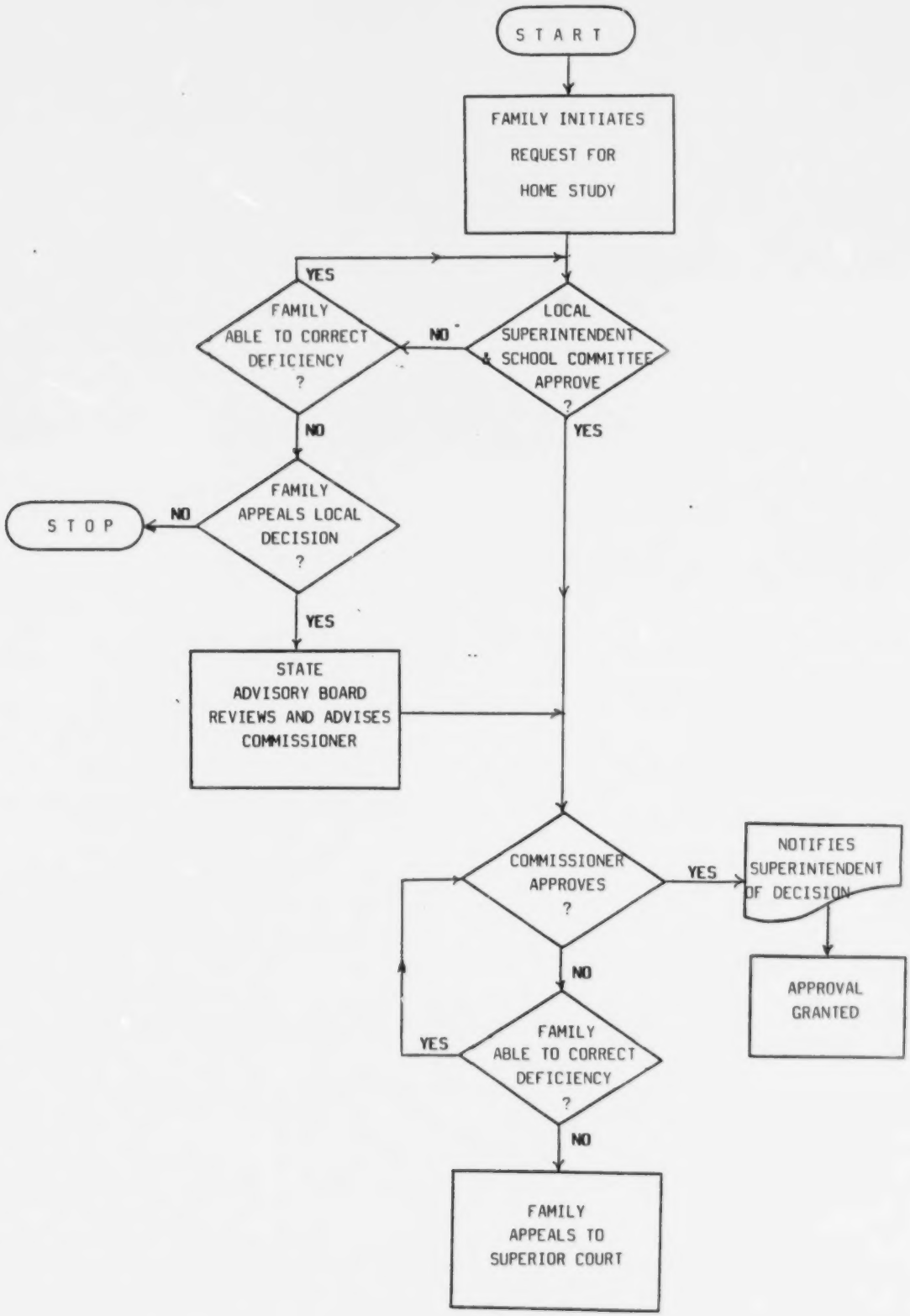
START
FAMILY INITIATES REQUEST FOR HOME STUDY
LOCAL SUPERINTENDENT & SCHOOL COMMITTEE APPROVE ?
NO
YES
FAMILY ABLE TO CORRECT DEFICIENCY ?
NO
YES
FAMILY APPEALS LOCAL DECISION ?
NO
STOP
YES
STATE ADVISORY BOARD REVIEWS AND ADVISES COMMISSIONER
COMMISSIONER APPROVES ?
YES
NOTIFIES SUPERINTENDENT OF DECISION
APPROVAL GRANTED
NO
FAMILY ABLE TO CORRECT DEFICIENCY ?
YES
NO
FAMILY APPEALS TO SUPERIOR COURT

TIMELINE FOR EQUIVALENT INSTRUCTION PROGRAM REQUESTS FOR HOME SCHOOLING

Sequence A - Approval at local level and at Commissioner's level
Sequence B - Approval at local level, denial by Commissioner
Sequence C - Denial at local level - appeal to Commissioner

- SEQUENCE A -

Step 1. Family initiates request for home-study in timely fashion at least thirty days prior to intended start of program.
Step 2. School Board reviews request. If additional information is needed, parents are provided ten days before hearing closes. School board has ten additional days for review.
Step 3. Local School Board approval recommendation forwarded to commissioner within five working days by superintendent.
Step 4. The commissioner approves request, notifies superintendent promptly. Request procedure concludes. Program begins. Program needs periodic review and annual approval.

- SEQUENCE B -

Step 1. Family initiates request for home-study in timely fashion at least thirty days prior to intended start of program.
Step 2. School Board reviews request. If additional information is needed, parents are provided ten days before hearing closes. School board has ten additional days for review.
Step 3. Local School Board approval recommendation forwarded to commissioner within five working days by superintendent.
Step 4. The commissioner denies request. Promptly notifies family and superintendents. Commissioner requests all pertinent material from family and superintendent. Needed information to be forwarde to commissioner within ten days of notification.
Step 5. Family is able to correct deficiencies, and approval is granted, and superintendent and family are notified, or;
Step 6. Commissioner denies request as deficient. Informs superintendent and family promptly.

Decision of commissioner is deemed a final agency action within the meaning of the Maine APA and appealable to the Superior Court.

- SEQUENCE C -

Step 1. Family initiates request for home study in timely fashion at least ten days prior to intended star of program.
Step 2. School Board reviews request. If additional information is needed, parents are provided ten days before hearing closes. School Board has ten additional days for review. If denied, parents notified in writing within five working days.
Step 3. If appeal is taken, it is to be filed with the commissioner within ten working days of the receipt of the notice of denial.
Step 4. Upon receipt of an appeal, the commissioner notifies the parent in writing that the appeal has bee received and notifies the superintendent that an appeal action is being taken.
Step 5. The superintendent will forward to the commissioner within ten working days of the notification by the commissioner for all material pertinent to the appeal.
Step 6. The commissioner activates state level advisory committee to meet and review the appeal(s). Revie committee makes recommendation to commissioner.
Step 7. The commissioner shall inform both parent(s) and the superintendent in writing as to the final decision of his office; if the appeal is denied, the decision shall be deemed a final agency action, within the meaning of the Maine Administrative Procedure Act, and appealable to the Superior Court.

05-071 DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES

COMMISSIONER OF EDUCATIONAL AND CULTURAL SERVICES

Chapter 130 RULES FOR EQUIVALENT INSTRUCTION PROGRAMS

SUMMARY: This chapter outlines the procedures and standards governing the Commissioner's review of proposed equivalent instruction programs, commonly referred to as "home schooling," pursuant to 20-A M.R.S.A. §5001(2)(D).

Section 1. Procedures and Standards for Equivalent Instruction Programs.

A. DEFINITIONS

1. Commissioner: "Commissioner" shall mean the Commissioner of the Department of Educational and Cultural Services or his designee.

2. Equivalent instruction: "Equivalent instruction" shall mean an alternative program of instruction approved under this chapter designed to fulfill the requirements of the compulsory school attendance law as an equivalent to attendance at a public school or an approved private school, as authorized by 20-A M.R.S.A. §5001(2)(D).

3. School: "School" shall mean any regular instructional program conducted for purposes of the compulsory attendance law which enrolls two or more unrelated students.

4. Tutor: "Tutor" shall mean the parent(s) or other person(s) who acts or will act as the primary teacher of the student(s) in an equivalent instruction program.

B. SCHOOL BOARD RULES

The school board of every school administrative unit shall adopt rules governing the application for and review of equivalent instruction programs as alternatives to attendance in the regular public day school program. These rules shall govern all alternative programs of instruction beginning in the school year starting July 1, 1985.

A current copy of the rules shall be filed with the Commissioner. Copies shall be printed and be made available to all interested individuals upon request.

The rules shall include notice of the requirement that equivalent instruction programs be approved by local school officials and the Commissioner and shall further include notice of the right to appeal any denial of an application to the Commissioner.

An equivalent instruction program is subject to annual approval by the school board of the administrative unit where the student(s) resides.

The rules shall be consistent with and shall be implemented in conformity with the requirements of this chapter.

C. COMMISSIONER'S REVIEW OF APPLICATION FOR EQUIVALENT INSTRUCTION

1. Local school responsibility: Upon approval of an application for equivalent instruction, the superintendent of the school unit shall, within five working days, forward to the Commissioner the following:

   (a) a copy of the parent's application and a description of the equivalent instruction plan which meets the needs of the student(s) and includes all statutory requirements set forth in Title 20-A and rules promulgated thereto,

   (b) a copy of the minutes containing the school board's decision,

   (c) a copy of any report and recommendations prepared for the school board by the instructional or administrative staff of the school unit, including any Pupil Evaluation Team recommendations, and,

   (d) any other information which formed the basis of the school board's decision.

2. Review by the Commissioner: The Commissioner, or his designee, shall review all relevant material forwarded by the school unit to determine if the student(s) will be provided equivalent instruction within the meaning of 20-A M.R.S.A. §5001(2)(D). In making a determination that equivalent instruction is available, the Commissioner shall consider whether the plan includes the following:

   (a) competent instruction by

      (i) a tutor who holds, or is eligible to hold, a certificate as a teacher in the State of Maine, or

      (ii) a tutor who will be assisted by a satisfactory support system: the support system shall include one of the following:

         (aa) provision for a certified teacher to work with the tutor on a regular basis, at a minimum of four times during the school year; or,

         (bb) provision for the tutor to receive regular assistance, at a minimum of four times during the school year, from a public school or an approved private school; or,

         (cc) provision for the tutor to receive regular assistance and supervision, at a minimum of four times during the school year, from another, approved, home instruction program which has been in operation for a minimum of one school year; or,

(dd) provision for a support system which otherwise satisfies the Commissioner;

(b) provision to meet the following program standards:

(i) an instructional day of adequate length of time to accomplish the proposed educational program plan for the student(s),

(ii) an instructional year which meets at least the minimum number of days required by statute (175 days),

(iii) a sample of a typical weekly instructional scheme describing the subject areas to be taught,

(iv) a syllabus (curriculum outline) of the educational program for the student which includes instruction in the basic curriculum required to be taught to students in public or private schools (Reading, Language Arts, Math, Science, Social Studies, Physical Education),

(v) a list or description of the instructional materials and textbooks which will be used and made available to the student,

(vi) the tutor's plan of assessment which will accurately and adequately measure the student's academic abilities and progress in the proposed educational program at least four times during the school year,

(vii) a plan for record-keeping which charts the student's academic progress and records other pertinent information, and

(viii) an identification and description of the support system selected to carry out the objectives of the educational plan;

(c) an annual assessment of the student's academic progress, which shall include at least one of the following:

(i) provision for annual, standard achievement tests;

(ii) provision for a locally developed test appropriate to the educational plan;

(iii) provision for annual review and acceptance of student's progress by an identified individual who holds a Maine teacher's certificate appropriate to the educational program identified in section 1(C)(2)(a);

(iv) provision for the review and acceptance of the student's progress by either the state level advisory board identified in section 2(D), or a local advisory board selected by the superintendent which shall include one administrative unit personnel and two home instruction personnel who may be selected from outside the unit; or

(v) provision for the maintenance of an annual educational portfolio on the student which documents the student's progress in meeting the educational objectives of the plan and which would be presented to the state level advisory board identified in section 2(D) for assessment; and

(d) a statement that the student(s) will participate in assessments of foundation skills which may be administered statewide at specific grade levels and will include reading, writing, mathematics, and oral expression.

3. Permanent record of assessment results, annual review by Commissioner:

A copy of the records required under section 1(C)(2)(b)(vii) and a copy of the results of the annual or statewide assessments conducted pursuant to section 1(C)(2)(c) and (d) shall be made a part of the student's permanent record and shall be maintained on file with the Commissioner until the home instruction program concludes.

Section 2. Commissioner's Procedure and Determinations on Appeal of Local School Denials.

A. NOTICE TO PARENT

When the local school officials deny an application for an equivalent instruction program, the parent shall be given a written statement of the reason(s) for denial and notice of appeal rights to the Commissioner within five working days after the denial.

B. FILING OF APPEAL

If an appeal of a denial is taken, it shall be filed with the Commissioner within ten working days after receipt of notice of the denial. Each appeal shall include a copy of the proposed program for equivalent instruction, a copy of the school board's written denial and reason(s), and a statement of the parent's appeal.

C. DEPARTMENT AND SCHOOL UNIT RESPONSE TO APPEAL
Upon receipt of the parent's appeal, the Commissioner shall:

1. provide the parent with a written notice of receipt,

2. notify the superintendent in writing of the appeal and request relevant information from the superintendent which shall include,

(a) a copy of the school board minutes,

(b) a copy of any staff review or recommendations made by the school unit on the proposed program,

(c) a copy of the notice of denial sent to the parent, and

(d) a copy of any other relevant material, including the student's educational records; and

3. require the superintendent to forward the material requested under paragraph (2) within ten working days.

D. DETERMINATION OF EQUIVALENT INSTRUCTION

The Commissioner shall appoint a state level advisory board to review all materials submitted by the school unit and the parent. The process shall operate as follows:

1. The Commissioner shall appoint one individual from the department, to chair the advisory board, one individual from the administration of a school administrative unit, and three individuals who are currently conducting approved equivalent instruction programs;

2. The state level advisory board may hold a fact-finding hearing to hear from the parents and school representatives on the appeal; shall make a finding of facts and shall forward those findings along with its recommendation to the Commissioner; and

3. The Commissioner shall inform both parent(s) and the superintendent in writing as to the final decision of his office; if the appeal is denied, the decision shall be deemed a final agency action, within the meaning of the Maine Administrative Procedure Act, and appealable to the Superior Court; if the appeal is granted, the school unit shall treat the student as properly excused from public school attendance.

BASIS STATEMENT:

These standards were adopted to allow greater flexibility in the means by which children receive an education, and to meet the unique circumstances and needs of individuals.

AUTHORITY: 20-A M.R.S.A. §5001 (2) (D).

EFFECTIVE DATE: July 1, 1985

GUIDELINES FOR IMPLEMENTATION OF EQUIVALENT INSTRUCTION PROGRAMS BY SCHOOL BOARDS.

Section 1. Procedures and Standards for Equivalent Instruction Programs.

A. INTRODUCTION AND OVERVIEW

Maine law allows parents to arrange with local school boards to have their children educated outside a public or private school, if the student will receive "equivalent instruction." If the proposed program of instruction is "equivalent" within the meaning of the law, it must be approved by local school officials. Parental motives should not be questioned by school officials and cannot be the basis for denial.

The following provisions of this section are intended as guidelines to local school officials to aid in the adoption and implementation of equivalent instruction rules and policies.

B. ADOPTION OF LOCAL RULES

Local rules governing decisions on requests for equivalent instruction must be adopted by each school board and a current copy of these rules must be filed with the Commissioner.

Local rules should contain two basic components: (1) a procedure for the review and determination of requests for equivalent instruction, and (2) a set of standards by which each request will be judged. These rules should be published and made available to any parents who are considering the equivalent instruction alternative to public schooling for their children.

C. SCOPE OF LOCAL RULES

The equivalent instruction rules may be incorporated into school board rules addressing the "alternative" programs in "work, work-study and training" which are authorized for students of age 14 and above. And they may be incorporated into a larger package of rules governing the topics of compulsory attendance and truancy, habitual truants and dropouts, and waivers of the compulsory attendance law.

The rules should not attempt to govern parental choices to send their children to approved private schools. Where children are attending approved private schools, they must be excused from the public school. The proper interest of the superintendent in such cases is limited to record-keeping which notes the children within a school unit who attend approved private schools, receipt of certificates of attendance from private school officials, and sufficient demonstration that the children continue to attend school regularly and are not truant. Local rules on equivalent instruction should clearly define for parents not only the application process, but the standards which the school committee will apply in decision-making. Parents should be informed of the information necessary for a complete application (curriculum, materials, time, etc.). This will avoid denials based upon lack of necessary information.

D. APPLICATION REQUIREMENTS

Reasonable rules will include an application form which will elicit all the information necessary for processing the request for equivalent instruction. A model application is attached as Appendix A to these guidelines.

E. DEADLINES FOR ACTION

The equivalent instruction law does not address the timing of requests for equivalent instruction. Local rules and policies should, at a minimum, inform parents that no student may legally be removed from a public school or approved private school without prior approval of the equivalent instruction program. A reasonable rule would request that parents prepare requests for equivalent instruction in conjunction with the established school year, in order to allow a final decision (including approval by the Commissioner) before the start of the school year.

If an application for equivalent instruction is received by the school board at least thirty days prior to the beginning of the school year, then the child(ren) shall not be deemed truant until a final decision is made by the Commissioner.

F. DELEGATION OF PRELIMINARY REVIEW

Preliminary review and discussion of the equivalent instruction petition might be delegated to the superintendent, principal, or other designated school personnel. As a practical matter, this delegation appears to be necessary for the total "arrangement" of equivalent instruction cannot reasonably or efficiently be handled by the school board. The board's role, more logically, is the adoption of rules and policies and final decision regarding the requests.

This delegation should be clearly stated in the school board's rules. The report of the review and recommendation should be in written form and transmitted to the parents before any review and decision by the school board.

G. DELEGATION OF DECISION-MAKING ON APPLICATIONS

The law requires only that the school board "arrange" for equivalent instruction programs. There is no explicit requirement that the local board meet, discuss, and approve each application. Such decisions might be delegated to the superintendent in the official school board rules. If this is done, it could be a more efficient procedure than one requiring annual school board meetings on individual applications. Where there is a delegation to the superintendent, the school board provides a forum for appeals of any rejections.

School boards are advised to use discretion when discussing details of individual students needs or programs in a public session.

H. STANDARDS GOVERNING EQUIVALENT INSTRUCTION PROPOSALS

The standards upon which the Commissioner will review equivalent instruction programs (including appeals of local denials) are specified in Section C of the equivalent instruction rule. Local school officials are advised to pattern their local rules on this definition to avoid unnecessary appeals and reversals by the Commissioner.

The following guidelines address appropriate standards for equivalent instruction programs:

1. Instructional time. School units should require that equivalent instruction programs offer an instructional day of adequate length of time to accomplish the proposed educational program plan for the student(s), and an instructional year which meets at least the minimum number of days required by statute.

A sample of a typical weekly instructional scheme describing the subject areas to be taught should be included with the planned educational program.

2. Basic curriculum: Rather than require a curriculum identical to that offered in the public school which the student would otherwise attend, school boards should look to the basic curriculum required in the statutes and regulations of the Commissioner for private schools in delineating "equivalent instruction." In grades 1-8, students are required to study English, language arts, American history and social studies, mathematics, science, and physical education. The academic subjects may be presented in almost any format, using materials chosen by the teacher, but must demonstrate an ordered, sequential curriculum. The same approach would appear to be appropriate and reasonable for nonschool equivalent instruction programs.

3. Instructional program: It is reasonable and desirable to require parents to provide a syllabus and description of the instructional program which they intend to accomplish.

   If parents intend that equivalent instruction be for a limited period (e.g., one year) and that re-entry into regular public school classes is anticipated the next year, school officials may suggest the the texts and materials used in the regular public school grade be used, but cannot require this. The need for an assessment of a child's progress in order to re-enter school at a particular level should be communicated to parents.

   School officials should review programs which appear to be nothing more than chores around the house or farm.

   If the student is age 15 or above, school officials may consider waiving the compulsory school attendance laws rather than attempting to judge a proposed equivalent instruction program according to local rules. Alternatively, a proposed program may fit under the local rules for "Alternate" programs of work, work-study and training, rather than the equivalent instruction format.

4. Testing/Assessments: Two types of assessments of student progress should be required:

   A. Quarterly assessments of student progress by the student's tutor; and

   B. An annual assessment selected from one of the following options acceptable to the state:

      provision for annual, standard achievement tests;

      provision for a locally developed test appropriate to the educational plan;

      provision for annual review and acceptance of student's progress by an identified invidudual who holds a Maine teacher's certificate appropriate to the educational program identified in D.1(a);

provision for the review and acceptance of the student's progress by either the state level advisory board identified in Section 2D, or a local advisory board selected by the superintendent which shall include one administrative unit personnel and two home instruction personnel who may be selected from outside the unit; or

provision for the maintenance of an annual educational portfolio on the student which documents the student's progress in meeting the educational objectives of the plan and which would be presented to the state level advisory board identified in §E.5 for assessment. A portfolio can include a digest of specific works; samples of student academic achievements; a summary statement and a chronological log.

Finally the plan should recognize that the student will participate in assessments of foundation skills which may be administered statewide at specific grade levels and will include, reading, writing, mathematics, and oral expression.

The parent may have the option to have these assessments done at home by the tutor, or by a certified Maine teacher of the family's choice.

5. Record-Keeping and reporting: Academic records should be kept by the tutor and made available to school officials upon request and at the end of the school year.

The quarterly reporting of academic progress to the school might be a reasonable requirement of parents. Decisions on equivalent instruction may be made on an annual basis, an appropriate year-end report should be required as the basis of any decision on extension of the equivalent instruction program.

6. Tutor qualifications: In making a determination that equivalent instruction is available, the Commissioner shall consider whether the plan includes the following:

(a) competent instruction by

(i) a tutor who holds, or is eligible to hold, a certificate as a teacher in the State of Maine, or

(ii) a tutor who will be assisted by a satisfactory support system: the support system shall include one of the following:

(aa) provision for a certified teacher to work with the tutor on a regular basis, at a minimum of four times during the school year; or,

(bb) provision for the tutor to receive regular assistance, at a minimum of four times during the school year, from a public school or an approved private school; or,

(cc) provision for the tutor to receive regular assistance and supervision, at a minimum of four times during the school year, from another, approved, home instruction program which has been in operation for a minimum of one school year; or,

(dd) provision for a support system which otherwise satisfies the Commissioner;

I. EXCEPTIONAL CHILDREN

If a student has been identified as handicapped or is suspected of being handicapped and is therefore entitled to special education under Maine law, the school unit's review of an application for equivalent instruction should include the special education process (P.L. 94-142). It is recommended that school board rules include the recommendation of a Pupil Evaluation Team in the information considered.

J. STATE WARDS

Where a student is a state ward, no decision on an equivalent instruction application shall be made without the formal approval of the Director of the Division of Child and Family Services, Maine Department of Human Services. If the state ward is also an "exceptional student", a "surrogate parent" must be appointed and must agree to any equivalent instruction program, after completion of the PET process.

K. ADDITIONAL ARRANGEMENTS

Public school resources and materials such as library books and athletic facilities may be made accessible to students in equivalent instruction programs on a mutually agreeable basis consistent with local policy and law.

Parents and school officials may agree upon a monitoring and assessment schedule for the program more substantial than that required by local and state rules.

L. STUDENT ACCESS TO SCHOOL PROGRAMS AND FACILITIES

A student who is participating in an equivalent instruction program shall have the right of access to school facilities on the same basis as any member of the community of a similar age. However, the student, once approved for an equivalent instruction program, cannot participate in any regular school program (instructional or extra-curricular) without explicit approval of school authorities.

Students may be admitted to school programs on a part-time basis through approval of a part-time equivalent instruction program. For example, students may be allowed to participate in public school science and mathematics programs, while pursuing English, history, and music in an equivalent instruction program. This part-time arrangement, however, must be approved by responsible school officials (the school board or its designee). The Department recognizes part-time attendance in public school "if the student enrolls in a semester credit course or its equivalent leading to high school graduation" by students enrolled in alternate programs, pursuant to 20-A M.R.S.A. §5104. School officials may request proportional subsidy payments for such part-time attendance.

Where the student wants only to participate in extra-curricular activities, however, no subsidy can be claimed.

School officials are urged to consult with their school attorneys and insurance agents to determine the extent of any liability for equivalent instruction students who participate in extra-curricular activities.

M. SCHOOL BOARD MEETING

Where the final decision is to be made by the school board, parents should be informed in ample time to prepare for the meeting. They should also be informed in advance of any reports and staff testimony which may be presented concerning the request for equivalent instruction. Board members should receive the proposed program and staff review prior to the meeting and should use the meeting to obtain from the parents any additional information which they feel is necessary to vote on approval of the proposal.

Board members should be fully aware of the provisions of the equivalent instruction statute and school rules and policies.

The meeting with the Board should be in the nature of an informational and educational meeting, rather than an adjudicatory proceeding. The focus should be on the educational merits of the proposal for equivalent instruction. Parents, however, shall be allowed to bring any witnesses for presentations on their proposal. They should also have the opportunity to rebut any school staff findings or conclusions about the proposal and to question school staff as to their observations. Finally, parents are allowed to bring legal counsel to aid in their presentation.

N. FAIR HEARING REQUIREMENTS

Although the meeting with the school board need not be a formal adjudicatory hearing, school officials must provide a fair hearing on the merits of the proposal. Parents must have sufficient opportunity to present and explain their proposal, to question school staff and recommendations and to answer questions about the proposal.

School board members must make a decision about the application for equivalent instruction based on the record (proposed plan, staff recommendation and testimony) of the hearing. If the application is rejected, the board must state the reasons in the official minutes. Within five days of the school board meeting the parents shall be informed officially in writing of the board's decision and their reasons for rejection and of their right to appeal to the Commissioner within ten days.

A record of the board's decision should be kept including official minutes and all documents presented at the school board hearing.

O. DURATION OF APPROVAL

Approval should be given on an annual (school year) basis. The school board's rule should specifically state the duration of an approval and the procedures and standards for extension of approval.

P. EXTENSION OF APPROVAL

Extension of approval of an equivalent instruction program should be addressed in the school board rules. Extension of approval should be contingent upon reasonable evidence of satisfactory student progress and the fulfillment of other components of the equivalent instruction plan.

The parent should be required to submit an updated instructional plan for the next school year for approval of the request for extension.

Q. COMMISSIONER'S REVIEW AND APPEAL PROCEDURE

The Commissioner's role in approval of equivalent instruction programs, including review and decision on appeal from local denials, is outlined in section 1 of this chapter. School officials must conform to these procedures.

A record of local action on the application for equivalent instruction should be routinely forwarded by school officials promptly to the Commissioner for his review and approval. This should include: the parent's petition, supporting documentation, the school committee's vote, as recorded in the minutes and any supporting written testimony.

Section 2. Model Rules and Forms on Equivalent Instruction.

The following pages contain a model rule for adoption by school boards governing applications for equivalent instruction, a model Application Form and a Notice of School Unit Action.

[Name of School Unit]

EQUIVALENT INSTRUCTION RULE

A. INTRODUCTION

This rule is intended to govern the implementation of equivalent instruction alternatives to attendance at public and approved private schools. It is issued by the [Name] School Board pursuant to 20-A M.R.S.A. §5001(2)(D).

B. GENERAL REQUIREMENTS

Any parent* may apply for approval of an equivalent instruction program for his/her student as an alternative to attendance at the regular public day school or an approved private school. No equivalent instruction program shall commence without a review by the School Board and without the approval of the Commissioner of Educational and Cultural Services.

C. INITIAL APPLICATION PROCEDURE

1. The Parent's Application Statement. The parent shall file the written application statement with the Superintendent at least 30 days prior to the proposed effective date of the equivalent education program (see timeline). The application statement shall provide the information and assurances which demonstrate that the standards for approval of equivalent instruction programs are met.

   The application must also include the following information:

   (a) The name and date of birth of each student for whom the equivalent instruction program is being requested.

   (b) The name, address, and telephone number of the child's parent. (For purposes of this rule, the term parent shall include a child's legal guardian.)

   (c) The address of the place where the proposed equivalent instruction program will be conducted, if different from (b) above.

   (d) The proposed effective dates of the child's equivalent education program. (beginning and end, not to exceed one school year.)

* For purposes of this rule the term parent shall include a child's legal guardian.

D. CONSULTATION AND REVIEW BY SCHOOL STAFF

1. The consultative process will be in accordance with the established timeline. Upon receipt of an "application to establish an equivalent instruction program", the Superintendent shall establish a mutually convenient time and place for the parent to consult with the Superintendent [or his designee] for the purpose of reviewing the requirements and procedures for completing the application statement.

2. The Superintendent [or his designee] shall review the application and make recommendations to the School Board. A copy of the recommendations shall be delivered to the parent. The parent shall be provided a reasonable but specified time to review and respond to the Superintendent's recommendation prior to any scheduled hearing with the School Board.

E. STANDARDS FOR APPROVAL OF EQUIVALENT INSTRUCTION PROGRAMS

The following standards shall govern school unit approval of applications for equivalent instruction programs.

1. Competent instruction by:

   (a) a tutor who holds, or is eligible to hold, a certificate as a teacher in the State of Maine, or

   (b) a tutor who will be assisted by a satisfactory support system: the support system shall include one of the following:

      (i) provision for a certified teacher to work with the tutor on a regular basis, at a minimum of four times during the school year; or,

      (ii) provision for the tutor to receive regular assistance, at a minimum of four times during the school year, from a public school or an approved private school; or,

      (iii) provision for the tutor to receive regular assistance and supervision, at a minimum of four times during the school year, from another, approved, home instruction program which has been in operation for a minimum of one school year; or,

      (iv) provision for a support system which otherwise satisfies the Commissioner;

2. Provision to meet the following program standards:

   (a) an instructional day of adequate length of time to accomplish the proposed educational program plan for the student(s),

(b) an instructional year which meets at least the minimum number of days required by statute (175 days),

(c) a sample of a typical weekly instructional scheme describing the subject areas to be taught,

(d) a syllabus (curriculum outline) of the educational program for the student which includes instruction in the basic curriculum required to be taught to students in public or private schools (Reading, Language Arts, Math, Science, Social Studies, Physical Education),

(e) a list or description of the instructional materials and textbooks which will be used and made available to the student,

(f) the tutor's plan of assessment which will accurately and adequately measure the student's academic abilities and progress in the proposed educational program at least four times during the school year,

(g) a plan for record-keeping which charts the student's academic progress and records other pertinent information, and

(h) an identification and description of the support system selected to carry out the objectives of the educational plan;

3. An annual assessment of the student's academic progress, which shall include at least one of the following:

(a) provision for annual, standard achievement tests;

(b) provision for a locally developed test appropriate to the educational plan;

(c) provision for annual review and acceptance of student's progress by an identified individual who holds a Maine teacher's certificate appropriate to the educational program identified in section 1(C)(1)(a);

(d) provision for the review and acceptance of the student's progress by either the state level advisory board identified in section 2(D), or a local advisory board selected by the superintendent which shall include one administrative unit personnel and two home instruction personnel who may be selected from outside the unit; or

(e) provision for the maintenance of an annual educational portfolio on the student which documents the student's progress in meeting the educational objectives of the plan and which would be presented to the state level advisory board identified in section 2(D) for assessment; and

4. A statement that the student(s) will participate in assessments of foundation skills which may be administered statewide at specific grade levels and will include reading, writing, mathematics, and oral expression.

F. SCHOOL BOARD PROCEDURE

Parents are entitled to a fair and timely decision on any application for equivalent instruction (see timeline). The following requirements shall govern School Board determinations on applications.

1. School Board Hearing. Upon receipt of the Superintendent's recommendations, the School Board shall schedule a hearing in regular session or specifically scheduled on the equivalent instruction application and shall provide the parents with adequate notice of the time and place of such hearing.

   The School Board shall not be bound by the rules of evidence or other courtroom procedures. At the hearing, the Superintendent shall introduce the application and make recommendations regarding approval or denial. The parents shall have an opportunity, individually or through counsel, to discuss the application and to respond to the Superintendent's recommendations and to questions of the board. The parent(s) and the Superintendent [or designee] may testify on the proposed equivalent instruction application and be questioned, ask witnesses to testify and have the right to question witness.

   School Boards are advised to use discretion when discussing details of individual students needs or programs in a public session.

   A written (not necessarily verbatim) or taped record shall be made of the hearing proceedings. A copy of the written transcript or tape shall be made available to the parent upon request. The parent may be required to pay a reasonable cost for a copy of such transcript or tape. [Parents shall be provided ten days to submit additional information before the record of hearing closes.]

2. The School Board shall make one of the following determinations:

   (a) Approved Application. Approve the equivalent instruction application. Notification shall state the period of time for which approval is granted, not to exceed one school year.

   (b) Deficient Application. If the School Board is of the opinion that the application has deficiencies that can be easily corrected, all such deficiencies shall be communicated in writing, to the parent with recommendations as to how to correct them. The parent shall be provided ten days to resubmit a corrected application, or additional time upon mutual agreement. The Board shall have ten working days from the date additional information is received to issue a written decision. The School Board may approve the resubmitted application and provide notification to the parent. If the board finds that the deficiencies have not been corrected, it shall reject the application. A rejection shall be sent to the parent in writing specifying the reason(s) for the rejection within five working days.

   (c) Rejected Application. If the School Board is of the opinion that the application fails to meet the standards in this rule

and rules of the Commissioner, the Board shall deny the application. A denial action shall be sent in writing specifying the reasons for denial and the parent's right of appeal to the Commissioner.

G. SPECIAL CIRCUMSTANCES

1. Handicapped Student. If the student is handicapped or suspected of being handicapped and entitled to a special education program and related services, no decision will be made on an application for equivalent instruction until the Pupil Evaluation Team makes its recommendations to the Superintendent and School Board.

2. State Ward. If the student is a state ward, no application for equivalent instruction will be accepted unless it has been submitted by the case worker in charge of the student.

   If the student is an "exceptional student" entitled to special education and related services, no decision shall be made on an application for equivalent instruction without the participation of a Surrogate Parent.

H. APPROVAL OF COMMISSIONER

1. Once the School Board has approved an application for equivalent instruction, the Superintendent shall forward notice to the Commissioner as required (see timeline).

2. Any equivalent instruction application which is denied may be appealed to the Commissioner by the parent. The appeal shall be filed within ten days of the receipt of notice of denial.

I. PROCEDURE ON REQUESTS FOR EXTENSIONS OF APPROVAL

1. Duration of approval. Approval of an equivalent instruction program shall expire on the date set by the School Board, which shall generally coincide with the end of the school year.

2. Requests for Extension of Approval. Requests for Extension of Approval shall be initiated by the parent's filing a "Request for Continuation of Approval Status" with the superintendent at least thirty days prior to the school year, the parents must file an updated application statement.

3. Procedure. The Superintendent and staff consultation and review of the Application for Extension shall be conducted as required for an initial application. School Board procedures shall be the same as set forth for initial applications. Notice to the Commissioner shall be the same as on initial applications.

J. REVOCATION OF APPROVAL STATUS

1. Administrative procedure: Where a Superintendent has reason to believe that the equivalent instruction program is not being adequately implemented or implemented as approved by the School Board, he shall notify the parent and arrange a conference.

If, after the conference, the Superintendent still has reason to believe that the program is deficient, he shall notify the School Board of his opinion and the reasons for it and recommend appropriate action. The parent shall receive a written copy of the Superintendent's opinion and recommended action.

2. School Board procedure: Upon receipt of the Superintendent's recommendations, the School Board shall notify the parent in writing of a time and place for a hearing on the Superintendent's findings and recommendations. If the Board finds that the program is deficient in its implementation, it may recommend to the commissioner that the approval be revoked.

Appendix A

[Name of School Unit]

APPLICATION FOR EQUIVALENT INSTRUCTION

BACKGROUND INFORMATION: Date:_____

Child's Name:_____ Grade:_____

Age:_____ Date of Birth: _____ Current School:_____

Parent's Name:_____ Tel:_____

Address:_____

Educational Background:_____

Teaching Experiences:_____

_____

Other Relevant Information:_____

Was this child enrolled in an approved equivalent instruction program during the last school year? ___Yes ___No

Proposed Dates: begin_____ end_____

Program Description

Please provide a description of the proposed program for your child. This description must include the following information:

1. A curriculum outline. Describe the curriculum to be used in this Home Study Program. Learning experiences required of all Maine students include the following subjects:

   English/Language Arts: A course of study which includes instruction in reading, grammar, spelling, and literature.

   Mathematics: A course of study which includes mathematical concepts, computational akills, measure skills and problem-solving applications.

   History/Social Studies: The history and government of the United States and Maine, including the federal and state constitutions.

   Science: Instruction in the biological and physical sciences.

   Physical Education: A program of physical education appropriate for the student.

   Please give sufficient detail to establish that your program provides these experiences, and include a list of the textbooks, materials, and other resources which will be made available to your child.

2. A sample typical weekly schedule of instruction:

3. A description of the evaluation process which will be used at least quarterly by the tutor to assess the child's academic progress.

4. Selection of one of the following methods of annual assessment of the child's academic progress:

   a) An annual standard achievement test
   b) A locally developed test appropriate to the educational plan
   c) Annual review and acceptance of the child's progress by a certified Maine teacher
   d) Annual review and acceptance of the child's progress by the state level advisory board
   e) Annual review and acceptance of the child's progress by a local advisory board
   f) Presentation to the State Advisory Board of a portfolio which documents the child's progress
   g) Other

5. Selection and description of one of the following support systems:

   a) Maine teachers' certificate held by the tutor
   b) Provision for certified teacher to work with the tutor on a regular basis, at a minimum of four times during the year
   c) Provision for the tutor to receive regular assistance at a minimum of four times during the school year, from a public school or an approved private school
   d) Provision for the tutor to receive regular assistance and supervision, at a minimum of four times during the school year, from another, approved, home instruction program which has been in operation for a minimum of one school year
   e) Provision for a support system which otherwise satisfies the Commissioner.

6. You may include any other information you wish to assist the local school board and the Commissioner in the approval process.

This application must be completed and returned to your local school superintendent at least thirty days before the date you wish to begin your child's home instruction program.

Date: _____

NOTICE OF SCHOOL UNIT ACTION

EQUIVALENT INSTRUCTION PROGRAM

Name of School Unit: _____

Name of Student: _____

An equivalent instruction program for the above-named student was reviewed by the school board [superintendent] on _____ (date) for the school year _____, and the following determination made:

Program approved: _____

Program disapproved: _____

Reason(s) for disapproval: _____

_____

_____

_____

_____

_____

A description of the program, including the application, is attached to this notice.

This Notice is to be sent to the Maine Department of Educational and Cultural Services with a copy to the parents.